(1)

Supreme Court, U.S.
FILED

99 953 JUL 12 1999

No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

JOHN AMES
Petitioner,

v.

THE STATE of MAINE
The MAINE DEPARTMENT of HUMAN SERVICES
JUDGE EUGENE BEAULIEU
JANET H. MOORE
WILLIAM MOORE
MARTHA J. HARRIS
PAINE & LYNCH Attorneys at Law
Any John Does

APPLICATION OR PETITION
for
WRIT OF MANDAMUS

John Ames
P.O. Box 289
E. Winthrop, Maine
04343
207-395-2588

8 pp

Motion- For leave to file petition or application for writ of mandamus - in the Supreme Court of the United States - (under rule 17.)

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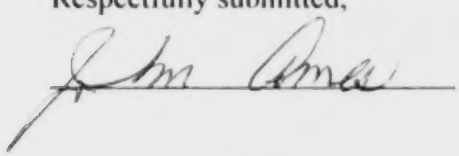
John Ames petitioner, a resident of Marysville, Yuba, California, mailing address P.O. Box 289, E. Winthrop, Maine, moves that this court grant petitioner leave to file a petition for a writ of mandamus, submitted with this motion, the petition being referred to and made a part of this motion for all purposes.

Petitioner tends the amount of $300-, Postal Money Order S. N. 83915480272, as cash deposit for costs as required by rule 38 (a).

Petitioner requests that the petition be filed and set for hearing, and for any other relief, general and special, to which he may be entitled.

October 29, 1999

Respectfully submitted,



John Ames Pro se

STATEMENT OF THE CASE

John Ames and Janet Ames [now Moore] were first married in Hollywood Florida in June of 1957. They had five children. Janet first divorced John in 1976. She explained she wished to replace John with Charles Clapper, one of John's employees. She advised "I should not close any doors in our relationship." John took none of the marital property, except his hand tools, giving Janet the family business including three houses. Janet offered not to request alimony. John moved to California in 1977. In 1978 Janet filed bankruptcy and moved to California to be with John; the children Keith 17 and John Jr. 13 moved with her. They bought a house in Willits, Ca. and remarried in Reno Nev., one dependant child remaining at home.

John continued to operate his electrical contracting business. In about a year Janet complained of personal problems and asked for some time to be with her relatives in Maine. John agreed to accompany her and stay as long as funds allowed. They towed John's travel trailer as a place *to live in Maine.* Keith chose to stay in California until our return. John returned to California, alone in 1981. In August of 1982, expecting Janet to join him, John rented an apartment in Marysville Ca. Instead she moved in with Gene Drake of Bucksport Me. In August of 1982 Janet divorced John a second time after a *22 month* marriage.

Court records demonstrate that Jack Miller, a California deputy sheriff, alleged personal service on John on Oct. 22, 1982. In 1983 an *ex parte* divorce and *default* monetary judgement was issued by **Judge Beaulieu** at Maine District Court, in Bangor, Me. John received a judgement by mail, his only notice. Foregoing marriage, Janet lived with Eugene Drake the next *ten* years. John was never unfaithful to any marriage obligations; nor did he commit any cruel or abusive acts. He did not answer any complaint or submit to Maine jurisdiction.

From the 1983 judgment until 1993, *10 years*, Janet requested no payment, sleeping on her alleged rights. Shortly before his retirement she filed with the D.H.S. requesting payment. Abruptly thereafter, the children of age and married, Janet left Eugene to marry William Moore of Millford, Maine. In Feb. 1994, under the threat of imprisonment made by the Maine Department

of Human Services, I sent $300 per month. Payments were made until May of 1996 and presently continue by deductions from John's S.S. benefits. The S.S.A. deducted the $300 without a court order.

John Jr. the youngest child was 18 years old in 1987. John Sr. had no personal property in the state of Maine in 1982 or 1983. In 1984 John Sr. married Mary Wilson of Marysville Ca. He worked in his Ca. business from 1977 until 1996 when was forced to retire at the age of 61 because of two accidents, in 1994 and 1995. My present income is $843 S.S. disability less the $300 garnishment sent to Me. D.H.S. I am a Korean war veteran and have V.A. medical benefits. Mary, my wife, works in day care her income is about 11,000 annually.

In 1999 Janet left her present husband, William Moore, and presently lives with her son Keith, in Bangor Maine. Janet has worked for the State of Maine from about 1985.

On Dec. 29,1997 I filed suit at U.S. District Court in Bangor, Maine. It was filed against Janet to set aside the 1983 judgment, case 97-272-B. On Jan. 2, 1998 the case was dismiss, as frivolous, by Magistrate Judge Eugene Beaulieu. Magistrate Beaulieu is the same Judge that issued the 1983 judgment 15 years previously. U.S. Judge Morton Brody affirmed Judge Beaulieu's dismissal in January of 1998.

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Argument

The petitioner believes his civil rights have been violated. In 1983 a monetary judgment was issued by Maine District Court. It was issued by Judge Eugene Beaulieu. The petitioner believes this judgment has been void been from its inception, therefore the circumstances dictate mandamus lies in this case. The petitioner wishes to have this case filed under **Rules of the Supreme Court of the United States, rule 17.**

(1994) "Judgments" 46 Am Jur 2d § 16 @ 382 states:

"To be valid and enforceable, a judgement must be supported by three elements:

(1) the court must have jurisdiction of the parties;

(2) the court must have jurisdiction of the subject matter;

(3) the court must have power to render the particular judgment."

The court had none of the three elements in the 1983, *monetary judgment holding* of the, divorce action.

The State of Maine, and its courts system, usurped its authority by allegedly serving a California resident, in the state of California in 1982. "The writ of mandamus will issue to remedy an unauthorized assumption of jurisdiction." *(1970) "Mandamus" 52 Am Jur 2d §312 @ 641.* The petitioner did not respond, was truly unaware of this legal action. The State of Maine did not follow its own rule 4 (f), service by mail, in this divorce action. However even that method would have been invalid in this case, to issue a monetary judgment. The State of Maine cannot support the theory of jurisdiction by means of state long-arm jurisdiction, in a monetary judgement, divorce action. There is no breach of contract , nor *tort* or any cause to support a monetary judgment. Also the facts of the case establish a monetary judgment issued on the basis of service on a nonresident, *not* served *within* the territorial boundaries of the forum make any monetary judgment void from its inception. In summary the Maine Court has never had *jurisdiction in personam;* thus any monetary judgment issued by the state court is void. Penoyer v. Neff 95 U.S. 714, (1877) , L Ed. 565, 81 A.L.R.

The petitioner is convinced the United States Supreme Court is the only court to posses the power of interstate service of process, and that authority only when the Court has jurisdiction in a case, that is when a U.S. citizen has the right, and leave of court, to file in the Supreme Court and does file. Article III § 2 [2] of the U.S. Constitution gives that right to the Court, but does not give that right to any state court.

The 1983 monetary judgment, in that divorce action, by the State of Maine has violated the petitioners civil rights under the 14th Amendment §1 of the United States Constitution, "Due Process of Law" and also "The Supremacy Clause". The facts of this case show, the state of Maine has violated Federal law as well, 42 U S C § 1983 and 1 U S C § 7.

"The *passage of time* cannot make a void judgment valid."
(1994) "Judgments" 46 Am Jur 2d § 16 @ 382.

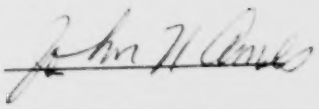
The petitioner has not had an opportunity to present this case in court and is now requesting relief through a writ of mandamus. The petitioner feels the merits of this case are adequate for the Court to grant a writ of mandamus.

The petitioner has a complete, 24 page, request for writ of mandamus awaiting premission to file in this Court; the contents of which is at the end of this brief, see page (i) in the appendix.

The facts of 1983 divorce actions clearly show that the monetary judgment could be not validly issued in that ex parte action; therefore, the petitioner is requesting costs, restitution and damages as defined in the 24 page petition.

Respectfully submitted,

On October 29,1999



John N. Ames Pro se

APPENDIX

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